

PROPOSITION _____. Prohibits the City from Requiring Project Labor Agreements on City Construction Projects. Should the City of San Diego be prohibited from requiring contractors to use Project Labor Agreements for City construction projects, except where required by law, and should the Mayor be required to post online all construction contracts over \$25,000?	YES	
	NO	

PROPOSITION

BE IT ORDAINED, by the People of the City of San Diego, as follows:

SECTION 1: San Diego Municipal Code, Chapter 2, Article 2, is amended by adding

Division 44, to read as follows:

Article 2 Administrative Code

Division 44: Fair and Open Competition in Construction Ordinance

§22.4401 Statement of the People’s Intent

The People of the City of San Diego support the enactment of this Fair and Open Competition in Construction Ordinance because they believe the City should treat union and non-union Contractors equally and not give special advantages to either. All City Construction Project job opportunities should be open equally to both union and non-union workers. Fair and open competition helps the City maximize government efficiency by getting the best quality work for the best price for the taxpayers. To promote fair and open competition for City Construction Project contracts, the City should not mandate the use of Project Labor Agreements. City Construction Project contracts should be posted online to help citizens evaluate the City’s performance in promoting fair and open

competition. The People believe these reforms are urgently needed and wish to enact this Ordinance as soon as possible.

§22.4402 **Fair and Open Competition - Prohibition on Requiring Project Labor Agreements**

Except as required by state or federal law as a contracting or procurement obligation, or as a condition of the receipt of state or federal funds, the City shall not require a Contractor on a Construction Project to execute or otherwise become a party to a Project Labor Agreement as a condition of bidding, negotiating, awarding or the performing of a contract.

§22.4403 **Fair and Open Contracts - Posting City Construction Project Contracts Online**

To help ensure City compliance with the purposes of this Ordinance, the Mayor shall post on the City's website in a searchable format the text of all Construction Project contracts entered into by the City valued at more than \$25,000 in a given fiscal year. The Mayor shall redact any proprietary, trade secret, or otherwise legally privileged or confidential information from contracts prior to posting. For each contract, the Mayor shall note the number of total bidders who competed for the contract. For any sole source contract, the Mayor shall post a written justification for the sole source determination.

§22.4404 **Definitions**

For the purpose of this Ordinance, the following definitions shall apply:
"Act" shall mean the National Labor Relations Act, Title 29 U.S.C § 151 - 169.

“City” shall mean and include the City of San Diego, its agencies, corporations, boards, commissions, organizational subdivisions, partnerships, offices, and any other entity that the City of San Diego holds a controlling interest thereof.

“Construction Project” shall mean and include any project paid for in whole or in part out of City funds for the construction, rehabilitation, alteration, conversion, extension, maintenance, repair, replacement, or improvement of any structures or real property.

“Contractor” shall mean and include an owner, developer, contractor, subcontractor, material supplier, carrier, or other person or firm engaged in the completion of a Construction Project.

“Labor Organization” shall have the same meaning ascribed to it in Section 2 of the Act (29 U.S.C. § 152).

“Ordinance” means this Fair and Open Competition in Construction Ordinance as codified in the San Diego Municipal Code Chapter 2, Article 2, Division 44.

“Project Labor Agreement” shall mean any pre-hire, collective bargaining or similar type of project specific labor agreement entered into with one or more Labor Organizations, employees or employee representatives that establishes the terms and conditions of employment on a Construction Project.

§22.4405 **Applicability**

- (a) The construction of this Ordinance shall be applied by the Mayor and City Council and interpreted judicially so as to most fully implement the Statement of the People’s Intent.

- (b) Nothing in this *Ordinance* shall be construed as prohibiting private parties that may perform work on *Construction Projects* from voluntarily entering into *Project Labor Agreements* or engaging in activity protected by law.
- (c) Nothing in this *Ordinance* shall be construed as prohibiting a *Contractor* from entering into any individual collective bargaining relationship, or otherwise as regulating or interfering with activity protected by applicable state or federal law, including but not limited to, the Act.
- (d) To the extent permitted by law, the provisions of this *Ordinance* shall be effective 30 days from approval of this proposition by the voters.
Contracts awarded before this effective date and subcontracts awarded pursuant to such contracts, whenever awarded shall not be governed by this *Ordinance*.

§22.4406 **No Amendment or Repeal except by a Vote of the People**

This *Ordinance* shall not be amended or repealed except by a majority vote of the voters of the City of San Diego.

§22.4407 **Judicial Review and Remedy**

Any person aggrieved or injured in any way by a violation of this *Ordinance* shall be entitled to all appropriate legal and equitable relief, including injunctive relief in the Superior Court of the State of California, County of San Diego, as well as relief by way of an action filed pursuant to California Code of Civil Procedure Section 526a.

§22.4408 **Severability**

If any provision contained in this *Ordinance* is held by a court of law of competent jurisdiction to be invalid, or is superseded by a numerically superior vote as provided in Section 2 of the proposition that enacted this *Ordinance*, the remaining provisions of this *Ordinance* shall not be affected but shall remain in full force and effect, and to that end the provisions of this *Ordinance* are severable.

SECTION 2: Conflicting Propositions

If any other proposition, appearing on the same ballot as this proposition, addresses the same subject matter in a way that conflicts with the treatment of the subject matter in this proposition, and if each proposition is approved by a majority vote of those voting on each proposition, then as to the conflicting subject matter the proposition with the highest affirmative vote shall prevail, and the proposition with the lowest affirmative vote shall be deemed disapproved as to the conflicting subject matter.

END OF PROPOSITION
